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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): NAI1P372/01.085.02

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on October 10, 2006

Signature April Skovmand

Typed or printed name April Skovmand

Application Number	Filed
10/057,709	01/25/2002

First Named Inventor: Victor Kouznetsov

Art Unit	Examiner
2141	Nicholas R. Taylor

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☑ attorney or agent of record. Registration number 41,429
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature

Kevin J. Zilka — Typed or printed name

408-971-2573 — Telephone number

October 10, 2006 — Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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REMARKS

The Examiner has rejected Claims 1, 4, 6, 9-12, 15, 17, and 20-23 under 35 U.S.C. 103(a) as being unpatentable over Engel et al. (U.S. Publication No 2002/0198969) and O'Toole et al. (U.S. Patent No. 6,345,294). In addition, the Examiner has rejected Claims 7-8, 18-19, 23-25, 27-29, 32-35, 37-39, and 42-44 under 35 U.S.C. 103(a) as being unpatentable over Engel and O'Toole in view Cohen (U.S. Publication 2003/0023732). Applicant respectfully disagrees with such rejections.

With respect to independent Claims 24 and 34, the Examiner has relied on paragraph 0032 in Engel to make a prior art showing of applicant's claimed "bootstrap module on the at least one network appliance installing the configuration package as part of an initialization bootstrap operation" (see the same or similar, but not necessarily identical language in the foregoing claims). Applicant's arguments from Amendment C mailed 01/12/2006 are hereby incorporated by reference.

Further, in the Office Action dated 04/10/2006, the Examiner has responded to applicant's arguments by asserting that paragraph 0018 in Engel discloses that the network device "may be undergoing an *initial configuration* or an update to its configuration." Applicant respectfully asserts the mere disclosure of finding a network device that may be undergoing an initial configuration fails to suggest that the network device is unconfigured, as argued by the Examiner. Further, the Examiner argued that "[i]n both Applicant's invention and Engel's teaching, an unconfigured device is capable of at least responding to this message to notify the central server that a configuration is requested." Applicant respectfully disagrees with the Examiner's argument and asserts that paragraph 0022 in Engel simply teaches that "[w]hen a network device responds to a multi-cast query message it indicates that the network device is capable of being configured" (emphasis added). However, the mere disclosure that a network device responds to a multicast query message indicating that it is capable of being configured, as in Engel, clearly fails to disclose "installing the configuration package as part of an initialization bootstrap operation" (emphasis added), as claimed by applicant.

In addition, with respect to independent Claims 24 and 34, the Examiner has relied on paragraphs 0032, and 0041 in Cohen to make a prior art showing of applicant's claimed "library of applets for one or more Web browser-based configuration clients operating within the specified network domain" (see the same or similar, but not necessarily identical language in the foregoing claims). Applicant's arguments from Amendment C mailed 01/12/2006 are hereby incorporated by reference.

In the Office Action dated 04/10/2006, the Examiner has argued that "Cohen does teach the use of a virtual machine present on each receiving client system" which "is used only to execute the customized applets that are downloaded." Further, the Examiner has argued that "[a] central server contains a variety of applets that are available for each client to download and execute, with the help of the virtual machine (Cohen, paragraph 0041)."

Applicant respectfully asserts that paragraph 0041 in Cohen merely discloses that "a central database on the same or a separate server contains the user identifications and permissions, device class capabilities, specific device configurations and permissions, libraries of document marks and other characteristics useful to the logic functions, and applets to be downloaded to specific devices in order to modify the functionality of each device" (emphasis added). However, the mere disclosure by Cohen that the central database contains applets to be downloaded to specific devices in order to modify the functionality of each device, as in Cohen, fails to suggest "a library of applets for one or more Web browser-based configuration clients" (emphasis added), as claimed by applicant. In particular, applets that modify the functionality of each device and separate device configurations and permissions, as in Cohen, fails to suggest "a library of applets for one or more Web browser-based configuration clients" where a "configuration client generat[es] a configuration package for the at least one network appliance" (emphasis added), in the context claimed by applicant.

Additionally, with respect to independent Claims 24 and 34, the Examiner has relied on Col. 7, lines 16-29 and item 30 of Figure 3 in O'Toole to make a prior art showing of applicant's claimed "completion module sending a message comprising one of success, failure and unconfigured following configuration package installation at each such network appliance" (see the same or similar, but not necessarily identical language in the foregoing claims).

Applicant respectfully asserts that the excerpt and figure from O'Toole relied upon by the Examiner merely discloses that the "registry has an attached database 30, which has a number of tables in it, including an ownership table 32, a boot status table 34, and a configuration table 36" (emphasis added). However, the mere disclosure of a registry with an attached database which includes an ownership table, boot status table, and configuration table, as in O'Toole, clearly fails to even suggest "a completion module sending a message comprising one of success, failure and unconfigured **following** configuration package installation at each such network appliance" (emphasis added), as claimed by applicant.

In addition, with respect to independent Claims 24 and 34, the Examiner has relied on Col. 24, lines 10-64 in O'Toole to make a prior art showing of applicant's claimed "status daemon initializing a secure management session following successful configuration package installation on at least one such network appliance" (see the same or similar, but not necessarily identical language in the foregoing claims).

Applicant respectfully asserts that the excerpt from O'Toole relied upon by the Examiner merely discloses that "Booter 48 is responsible for configuring the appliance" and that "[i]t runs the remote boot algorithm, collects database records, and then launches the other modules" (emphasis added). However, the mere disclosure that the Booter configures the appliance, runs the remote boot algorithm, collects database records, and launches other modules, as in O'Toole, fails to even suggest a "status daemon [which] initializ[es] a secure management session following successful configuration package installation on at least one such network appliance" (emphasis added), as claimed by applicant. In particular, the excerpt from O'Toole fails to teach "initializing a secure management session following successful configuration package installation" (emphasis added), as claimed by applicant.

With respect to independent Claims 1 and 12, the Examiner has relied on paragraph 0022 in Engel, and Col. 6, lines 29-38 from O'Toole to make a prior art showing of applicant's claimed "status module broadcasting a query message to the network appliances and processing a response message containing network settings, including a physical network address, received by the applet from at least one such network appliance responsive to the query message" (see the same or similar, but not necessarily identical language in the foregoing claims).

In the Office Action mailed 04/10/2006, the Examiner has responded to applicant's arguments by asserting that the term "current configuration information" refers to the "status" of the device. Further, the Examiner has argued that "[w]hile the device may respond with a current configuration, if the device has not yet been initialized it would respond with a message stating it is currently not configured." Applicant respectfully disagrees and asserts that paragraph 0022 in Engel merely discloses that "[t]he remote configuration applet 20 gathers data on the network devices on the local network 50 that respond to the multi-cast query message" where the "response from a network device to a multi-cast query message includes a set of current configuration information for the network device" (emphasis added). However, the mere disclosure that the remote configuration

applet gathers current configuration information for the network devices that respond to the multi-cast query message, as in Engel, fails to suggest "a status module broadcasting a query message to the network appliances and processing a response message containing network settings, including a physical network address, received by the applet from at least one such network appliance responsive to the query message" (emphasis added), as claimed by applicant. Clearly, the excerpt from Engel fails to even suggest that the response message from the network appliances include a physical network address, in the manner claimed by applicant.

In addition, the excerpt from O'Toole relied upon by the Examiner merely discloses that "[w]hen the SODA appliance is shipped from the factory, it is configured with a global unique number (GUID) (in the present implementation the MAC address of the Ethernet card) and with a DNS name for a server (e.g., soda.net) that hosts the appliance registry that contains information to configure the appliance" (emphasis added). Clearly, the mere disclosure that the MAC address of the Ethernet card is used as the global unique number of the SODA appliance, as in O'Toole, completely fails to even suggest "a physical network address," let alone "a status module broadcasting a query message to the network appliances and processing a response message containing network settings, including a physical network address, received by the applet from at least one such network appliance responsive to the query message" (emphasis added), as claimed by applicant.

Further, with respect to independent Claims 1 and 12, the Examiner has relied on Col. 7, lines 16-29, and item 30 of Figure 3 from O'Toole to make a prior art showing of applicant's claimed "list of the network appliances maintained by the status module for each at least one such network appliance sending a response message and not requiring configuration" (see the same or similar language in the foregoing claims).

Applicant respectfully asserts that the excerpt and figure from O'Toole relied upon by the Examiner merely discloses that the "registry has an attached database 30, which has a number of tables in it, including an ownership table 32, a boot status table 34, and a configuration table 36" (emphasis added). However, the mere disclosure of a registry with an attached database which includes an ownership table, boot status table, and configuration table, as in O'Toole, clearly fails to even suggest "a list of the network appliances maintained by the status module for each at least one such network appliance sending a response message and not requiring configuration" (emphasis added), as claimed by applicant.

Additionally, with respect to independent Claims 1 and 12, the Examiner has relied on Col. 11, line 62 to Col. 12, line 21 from O'Toole to make a prior art showing of applicant's claimed "completion module receiving a status message from each at least one such network appliance requiring configuration responsive to receipt of the configuration packet" (see the same or similar language in the foregoing claims).

Applicant respectfully asserts that the excerpt from O'Toole relied upon by the Examiner merely discloses that "[t]he only thing the appliance knows is what version of the software has been installed on the appliance by the manufacturer, a unique identification number or serial number or MAC address that distinguishes the appliance from other appliances, and whatever the appliance has observed from the local networking environment (step 108)" (emphasis added). Further, O'Toole teaches that "[t]he appliance sends a message containing these pieces of information to the appliance registry (step 114)" (emphasis added). However, the mere disclosure that the appliance sends a message containing a unique identification number or MAC address to the appliance registry, as in O'Toole, simply fails to even suggest "a completion module receiving a status message from each at least one such network appliance...responsive to receipt of the configuration packet" (emphasis added), as claimed by applicant. Clearly, the excerpt from O'Toole fails to even suggest that the status message is sent in "respons[e] to receipt of the configuration packet" (emphasis added), as claimed by applicant.

In addition, with respect to independent Claims 1 and 12, the Examiner has again relied on Col. 11, line 62 to Col. 12, line 21 from O'Toole to make a prior art showing of applicant's claimed technique "wherein the status message indicates an unsuccessful configuration, further comprising resending the configuration packet to the at least one such network appliance."

Applicant respectfully asserts that the excerpt from O'Toole relied upon by the Examiner merely discloses that "the appliance sends to the appliance registry a description of its network configuration based on configuration information received from a boot server or based on what the appliance chose to use as its temporary networking configuration by observing the local network" (emphasis added). However, the mere disclosure that the appliance sends a description of the network configuration, as in O'Toole, simply fails to even suggest a technique "wherein the status message indicates an unsuccessful configuration, further comprising resending the configuration packet to the at least one such network appliance" (emphasis added), as claimed by applicant.